

RECEIVED
CENTRAL FAX CENTER
MAR 31 2008

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 5 of 12

REMARKS

Claims 1-6 and 9-11 are pending in the application. Claims 1-6 and 9-11 are rejected. Claims 12-23 have been canceled in response to a Restriction Requirement. Applicant reserves the right to pursue claims 12-23 in one or more continuation and/or divisional applications.

Claims 1-6 and 9-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Boston (US Patent 4,766,293, hereinafter Boston) in view of Roslak et al. (US Patent 7,010,501, hereinafter Roslak) and further in view of Brown et al. (US Patent 5,485,507, hereinafter Brown).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Entry of this Amendment is proper under 37 CFR §1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested:

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 6 of 12

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. §103

Claims 1-6 and 9-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Boston in view of Roslak and further in view of Brown. The rejection is traversed.

As argued persuasively in Applicant's response to the final Office Action mailed December 19, 2007, Boston and Roslak, alone or in combination, fail to teach or suggest Applicant's invention of independent claim 1, and thus dependent claims 2-6 and 9-11, as a whole.

Boston discloses a portable financial transaction card capable of authorizing a transaction in foreign currencies. As disclosed in Boston, a transaction limit associated with each account of the cardholder is stored in memory. The cardholder selects the foreign currency which will be used for a purchase and, after selection of the foreign currency, the processor will convert the transaction limit from a local or base currency to the selected foreign currency. During the transaction, the processor compares the transaction amount with the converted transaction limit to determine if an approval code should be generated. (Boston, Abstract).

Roslak discloses a personal shopping system for use in the home of a user and a shopping establishment. As disclosed in Roslak, the system includes a host computer which is coupled to a host modem and, optionally, to at least one wireless multi-access point. The portable terminal is configured to read bar codes associated with items related to shopping, and includes a memory, a bar code reader, a wireless transceiver, and a data interface. The data interface of the

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 7 of 12

terminal communicates with a data interface of the shopping establishment kiosk cradle or directly with the shopping establishment's communications network. (Roslak, Abstract).

Boston and Roslak, however, alone or in combination, fail to teach or suggest Applicant's claim 1, as a whole.

As shown in Applicant's previous response, Boston and Roslak, alone or in combination, fail to teach or suggest evaluating transaction data using budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, wherein the budgetary constraint comprises at least one of an annual budget and a periodic budget determined via the budgetary item identifier field of the budgetary data using a budgetary item identifier of the transaction.

Thus, at least for the reasons discussed in Applicant's previous response, Applicant respectfully submits that Boston and Roslak, alone or in combination, fail to teach or suggest at least the limitations of "evaluating said transaction data using said budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, wherein said budgetary constraint is determined from one of the budgetary data records identified via the budgetary item identifier field of the one of the budgetary data records using a budgetary item identifier of the transaction, wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined from the respective annual and periodic budget fields of the one of the budgetary data records," as claimed in Applicant's claim 1.

Furthermore, Brown fails to bridge the substantial gap between Boston and Roslak and Applicant's claim 1.

In general, Brown discloses a commissary system for receiving and processing commissary orders. As disclosed in Brown, user-provided identifier information and item selection information is entered into the commissary system, and user status and inventory information stored in a memory device are compared with the user provided identifier and item selection information. The criteria include sufficiency of the user's account balance, item availability, and scope of the user's commissary privileges. (Brown, Abstract).

Brown, however, alone or in combination with Boston and Roslak, fails to teach or suggest Applicant's claim 1, as a whole. Namely, Brown, alone or in combination with Boston and Roslak, fails to teach or suggest at least the limitations of "evaluating said transaction data using said budgetary data to determine at least whether a transaction value exceeds a budgetary

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 8 of 12

constraint for a transaction, wherein said budgetary constraint is determined from one of the budgetary data records identified via the budgetary item identifier field of the one of the budgetary data records using a budgetary item identifier of the transaction, wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined from the respective annual and periodic budget fields of the one of the budgetary data records," as claimed in Applicant's claim 1.

Rather, with respect to transactions executed via the commissary system, Brown merely discloses that the cost of the requested items is compared with an account balance of the user. Specifically, Brown states that "[t]he criteria employed to determine whether an order is authorized may include, for example, the availability of the item, the sufficiency of the user's account balance, the user's previous purchases of item relative to any maximum number of allowed purchases, or any other restrictions on the user's commissary privileges." (Brown, Col. 3, Line 66 – Col. 4, Line 5).

A general statement that the cost of requested items is compared with an account balance of the user, as disclosed in Brown, does not teach or suggest the specific limitations of at least one of an annual or periodic budget determined via respective annual and periodic budget fields of one of a plurality of budgetary data records that is identified, via the budgetary item identifier field of the one of the budgetary data records, using a budgetary item identifier of the transaction for which the evaluation is performed. Brown is devoid of any teaching or suggestion of any such combination of records, fields, and information as claimed in Applicant's claim 1.

In the Office Action, the Examiner cites specific portions of Brown (namely, the Abstract; Col. 3, Line 22 – Col. 4, Line 23; and Claims 9 and 10), asserting that the cited portions of Brown disclose Applicant's limitation of "evaluating said transaction data using said budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, wherein said budgetary constraint is determined from one of the budgetary data records identified via the budgetary item identifier field of the one of the budgetary data records using a budgetary item identifier of the transaction, wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined from the respective annual and periodic budget fields of the one of the budgetary data records," as claimed in Applicant's claim 1. Applicant respectfully disagrees.

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 9 of 12

The first portion of Brown cited by the Examiner (Abstract) merely states that user status and inventory information are compared with a user provided identifier and item selection information based on criteria which may include sufficiency of the user's account balance. This general statement regarding the sufficiency of the user's account balance does not teach or suggest the specific combination of records, fields, and information as claimed in Applicant's claim 1.

The second portion of Brown cited by the Examiner (Col. 3, Line 22 – Col. 4, Line 23) merely describes the process by which an administrator enters information in the commissary system (Col. 3, Lines 22 – 35), the process by which a user accesses the commissary system (Col. 3, Lines 36 – 46), the process by which a user is validated by the commissary system (Col. 3, Lines 47 – 59), the process by which the user enters item selections (Col. 3, Lines 60 – 63), the process of item validation (Col. 3, Line 64 – Col. 4, Line 7), and the process of order confirmation (Col. 4, Lines 8 – 22). The only statement in this portion of Brown that is related to budget information associated with a user is the portion associated with item validation, in which Brown states that item selections are validated using, among other criteria, the sufficiency of the user's account balance. Again, Applicant submits that a general statement that item selections are validated using an account balance, as disclosed in Brown, does not teach or suggest the specific combination of records, fields, and information claimed in Applicant's claim 1.

The third portion of Brown cited by the Examiner (claims 9 and 10) states that a user-provided identifier is compared with a stored user identifier in order to identify the account balance associated with the user (claim 9), and comparison of the cost of requested items with the identified account balance (claim 10), which, as indicated hereinabove, does not teach or suggest the specific combination of records, fields, and information claimed in Applicant's claim 1.

The third portion of Brown cited by the Examiner also states that a number of items requested by a user is compared with a limit on the number of items that can be purchased in a given time period. In the Office Action, the Examiner asserts that this statement implies a periodic budget. Applicant notes that, even assuming, arguendo, that this statement does teach a periodic budget, Brown would still fail to teach or suggest the specific combination of records, fields, and information claimed in Applicant's claim 1.

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 10 of 12

Brown is devoid of any teaching or suggestion of budgetary data records, where each budgetary data record includes a budgetary item identifier field and at least one of an annual budget field and a periodic budget field. Brown is also devoid of any teaching or suggestion of using a budgetary item identifier of a transaction to identify one of a plurality of budgetary data records via the budgetary item identifier field of that one of the budgetary data records. Rather, Brown merely discloses comparing a cost of selected items to an overall account balance, or comparing a number of items selected to a limit on the number of items for the user. Thus, Brown, alone or in combination with Boston and Roslak, fails to teach or suggest Applicants' claim 1, as a whole.

As such, since each of Boston, Roslak, and Brown fails to teach or suggest "evaluating said transaction data using said budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, wherein said budgetary constraint is determined from one of the budgetary data records identified via the budgetary item identifier field of the one of the budgetary data records using a budgetary item identifier of the transaction, wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined from the respective annual and periodic budget fields of the one of the budgetary data records," any conceivable combination of Boston, Roslak, and Brown (assuming such combination is even possible) must also fail to teach or suggest this combination of limitations as claimed in Applicant's claim 1.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Thus, it is impermissible to focus either on the "gist" or "core" of the invention. Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. Boston, Roslak and Brown, alone or in combination, fail to teach or suggest Applicant's claim 1, as a whole.

As such, independent claim 1 is patentable over Boston in view of Roslak and further in view of Brown under 35 U.S.C. §103(a). Furthermore claims 2-6 and 9-11 depend, directly or indirectly, from independent claim 1 while adding additional elements. Therefore, these dependent claims also are non-obvious and are patentable over Boston in view of Roslak and further in view of Brown under 35 U.S.C. §103 for at least the same reasons discussed above in

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 11 of 12

regards to independent claim 1.

As such, Applicant's claims 1-6 and 9-11 are patentable over Boston in view of Roslak and further in view of Brown under 35 U.S.C. §103(a). Therefore, the rejection should be withdrawn.

704246-1

RECEIVED
CENTRAL FAX CENTER

MAR 31 2008

PATENT
Atty. Dkt. No. LCNT/121494
Serial No. 09/811,911
Page 12 of 12

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Michael Bentley at (732) 383-1434 or Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 3/31/08



Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808